

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CAMERON MONTE SMITH,

Defendants.

Case No. 1:23-cr-00118 and 1:24-cr-00104

**UNITED STATES' EVIDENTIARY
HEARING WITNESS AND EXHIBIT
SUMMARY LIST**

The United States of America, by Mac Schneider, United States Attorney for the District of North Dakota, and Jonathan J. O'Konek, Assistant United States Attorney, submits the aforementioned evidentiary hearing witness and exhibit summary list for the Court's consideration.

This Court has scheduled an evidentiary hearing for Friday, January 10, 2025, where the United States will present evidence in support of the following matters in this case:

1. USSG § 2B1.1 loss amount calculations;
2. The terrorism upward departure provision contained within Application Note 4 of USSG § 3A1.4; and
3. 18 U.S.C. § 3663A restitution calculations.

At this hearing, the United States intends to present testimony from the following witnesses:

1. FBI Special Agent Daniel Lewis, Williston, North Dakota;
2. FBI Special Agent Troy Breitenbach, Computer Analysis Response Team (CART), Minneapolis, Minnesota;

3. FBI Forensic Accountant Mark Danielson, Minneapolis, Minnesota;
4. Derik Johnson, Division Manager, Basin Electric Power Cooperative;
5. Katrina Wald, Vice President Controller, Basin Electric Power Cooperative;
6. Daniel Graham, Chief Security & Compliance Officer, Basin Electric Power Cooperative;
7. Mark Hoffman, Chief Operations Officer, East River Electric Power Cooperative; and
8. Steve Peterson, Mountrail Williams Electric Cooperative.

The United States' evidentiary hearing exhibits listed below are generally categorized as follows:

1. **Exhibit 13** is a summary document that provides both a summary and an itemized list of the loss and restitution amount requests in this case, which is relevant for the Court's consideration of the USSG § 2B1.1 loss amount calculations and 18 U.S.C. § 3663A restitution calculations;
2. **Exhibit 7** is a catalog of photographs depicting damage to the Wheelock, North Dakota, Substation operated by Basin Electric Power Cooperative, and the impact this damage had upon the facility, which is relevant for the Court's consideration of the terrorism upward departure provision contained within Application Note 4 of USSG § 3A1.4, the USSG § 2B1.1 loss amount calculations, and 18 U.S.C. § 3663A restitution calculations;
3. **Exhibit 8** is a list of Basin Electric Power Cooperative financial documents depicting the costs associated with repairing the damage to the Wheelock, North Dakota, Substation, which is relevant for the Court's consideration of the USSG § 2B1.1 loss amount calculations and 18 U.S.C. § 3663A restitution calculations;

4. **Exhibit 9** is a list of Mountrail Williams Electric Cooperative financial documents depicting the costs associated with repairing the damage to their property, which is relevant for the Court's consideration of the USSG § 2B1.1 loss amount calculations and 18 U.S.C. § 3663A restitution calculations;
5. **Exhibit 10** is a catalog of photographs depicting damage to the Carpenter, South Dakota, Substation operated by East River Electric Power Cooperative, and the impact this damage had upon the facility, which is relevant for the Court's consideration of the terrorism upward departure provision contained within Application Note 4 of USSG § 3A1.4, the USSG § 2B1.1 loss amount calculations, and 18 U.S.C. § 3663A restitution calculations;
6. **Exhibit 11** is a list of East River Electric Power Cooperative financial documents depicting the costs associated with repairing the Carpenter, South Dakota, substation, which is relevant for the Court's consideration of the USSG § 2B1.1 loss amount calculations and 18 U.S.C. § 3663A restitution calculations; and
7. **Exhibits 1 through 6 and Exhibit 12** depict evidence that law enforcement obtained after executing a search warrant upon the defendant's Oregon residence—which included the defendant's electronic devices—that is relevant to the Court's consideration of the terrorism upward departure provision contained within Application Note 4 of USSG § 3A1.4.

The United States intends to present witness testimony to provide further information about these exhibits at the January 10, 2025, evidentiary hearing.

Dated: December 10, 2024.

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NO.	WITNESS	DESCRIPTION
01	TROY BREITENBACH	Report of Examination Bates Nos. 3891-3894
02		“Communique” document properties Bates No. 3893
03		“Communique” document Bates No. 3685
04		CART report for Serial 88, Search Warrant Bates Nos. 3943-3970
05		Photo of laptop and case Bates No. 4075
06		Forensic toolkit file overview Bates Nos. 3226
07	DERIK JOHNSON	Photo of power transformer Bates No. 376
		Photo of conservator Bates No. 378
		Photo of load tap changer Bates No. 383
		Photo of same load tap changer Bates No. 389
		Photo of inside of load tap changer Bates No. 391
		Photo of control wiring of load tap changer Bates No. 397
		Photo of Mountrail-Williams’ station service transformers Bates No. 405
		Photo of Mountrail-Williams’ cooling fins of station service transformers Bates No. 408
		Photo of Mountrail-Williams’ voltage transformer Bates No. 862
		Photo of broken bushing insulator on top of transformer Bates No. 869
		Photo of cooling fan Bates No. 875

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NO.	WITNESS	DESCRIPTION
		Photo of high voltage circuit breaker Bates No. 882
		Photo of Basin main tank of power transformer Bates No. 926
		Photo of transformer Bates No. 9092
		Photo of substation property Bates No. 9093
		Photo of substation property Bates No. 9094
		Photo of substation property Bates No. 9095
		Table 4.2: Spare Equipment with Lead Times >1 Year Bates No. 9096
		Photo of substation property Bates No. 9097
		Photo of substation property Bates No. 9098
		Photo of load tap changer Bates No. 9099
		Photo of substation property Bates No. 9100
		Photo of control wiring of load tap changer Bates No. 9101
		Photo of substation property Bates No. 9102
		Photo of substation property Bates No. 9103
		Photo of substation property Bates No. 9104
		BEPC & FBI meeting PowerPoint Bates Nos. 8010-8013; 8030-8037; 8058-8062
08	DERIK JOHNSON	Repair Services Contract, Invoice 27006, \$536,750 Bates Nos. 8274-8279
		Invoice 1004867643, \$70,666.42 Bates Nos. 4951-4955

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NO.	WITNESS	DESCRIPTION
		Repair Services Contract, Invoice 26142, \$211,886 Bates Nos. 4965-4969
		Repair Services Contract, Invoice 25535, \$727,115 Bates Nos. 4973-4977
		Invoice 25610, \$18,276 Bates No. 4981
		Invoice 32-045-4902, \$36,140 Bates No. 4989
09	STEVE PETERSON	Mountrail-Williams Electric Cooperative financials Bates Nos. 7440-7451
10	MARK HOFFMAN	Photo of Carpenter substation power transformer radiator Bates No. 8487
		Photo of oil in secondary containment unit Bates No. 8489
		Photo of two radiators removed Bates No. 8496
		Photo of oil channel formed as draining out Bates No. 8474
		Photo of oil channels and oil absorbents Bates No. 8476
		Photo of after pumped oil in containment unit Bates No. 8481
		Photo of door for TransCanada building Bates No. 8291
		Photo of TransCanada building Bates No. 8305
		Photo of spray paint markings Bates No. 8310
11	MARK HOFFMAN	East River financials Bates Nos. 8070-8134; 8178-8180
12	FBI SA DAN LEWIS	Photo of DAPL spray paint markings on rocks Bates Nos. 254-256
		Photo of Extinction Rebellion spray paint markings on rocks Bates Nos. 262-267
		Photo of card with date of search warrant with address Bates No. 2930

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NO.	WITNESS	DESCRIPTION
		Photo of outside of residence with house number Bates No. 2931
		Photo of Environmentalism Documents Bates No. 2989
		Photo of hand drawn map Bates No. 2991
		Photo of HP laptop case Bates No. 2992
		Photo of HP laptop Bates No. 2993
		Photo of handwritten notes Bates No. 2994
		Evidence collection log Bates No. 2267
		“AU-Climate Report” .pdf <i>Native format</i>
		“climate slideshow” .odt <i>Native format</i>
		“ClimateChange” .jpg <i>Native format</i>
		“DEAL OUTLINE 2” .docx <i>Native format</i>
		“pipeline” .pdf <i>Native format</i>
13	MARK DANIELSON	Accounting Summary